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RICHARD A. MARSHACK

8 UNITED STATES BANKRUPTCY COURT

9 CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

10
11 In re

12 THE LITIGATION PRACTICE GROUP P.C.,

13
14 Debtor.
15
16
17

Case No: 8-23-bk-10571-SC

Chapter 11

NOTICE OF MOTION AND MOTION FOR
ORDER AUTHORIZING PRODUCTION
OF DOCUMENTS FROM AMERICAN
EXPRESS NATIONAL BANK
AS SUCCESSOR INSTITUTION TO
AMERICAN EXPRESS CENTURION
BANK AND AMERICAN EXPRESS
BANK, FSB PURSUANT TO FEDERAL
RULE OF BANKRUPTCY PROCEDURE
2004; MEMORANDUM OF POINTS AND
AUTHORITIES; AND DECLARATION OF
LAILA MASUD IN SUPPORT

[NO HEARING REQUIRED]

Date of Production:

Date: September 22, 2023

Time: 10:00 a.m.

Location: Marshack Hays LLP

870 Roosevelt
Irvine, CA 92620

26 TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY JUDGE,
27 THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED PARTIES:
28

1 Richard A. Marshack, in his capacity as Chapter 11 Trustee (“Trustee”) of the Bankruptcy
2 Estate (“Estate”) of The Litigation Practice Group P.C. (“Debtor”), respectfully files this motion
3 requesting that the Court enter an order requiring American Express National Bank As Successor
4 Institution to American Express Centurion Bank and American Express Bank, FSB (“Bank”) to
5 produce documents identified in Exhibit “1” no later than September 22, 2023, or at any other date
6 as may be agreed upon in writing by Trustee and Bank. The documents are requested pursuant to
7 Rule 2004 of the Federal Rules of Bankruptcy Procedure (“FRBP”) and Rule 2004-1 of the Local
8 Bankruptcy Rules (“LBR”). Counsel for Trustee has met and conferred with Bank as required by
9 LBR 2004-1(a).

10 Bank is to either (i) produce the original documents for inspection and copying at the law
11 offices of Marshack Hays LLP, 870 Roosevelt, Irvine, CA 92620, (ii) mail copies of the documents
12 to Marshack Hays LLP, 870 Roosevelt, Irvine, CA 92620 or (iii) e-mail said documents in pdf
13 format to D. Edward Hays at ehays@marshackhays.com and Laila Masud at
14 lmasud@marshackhays.com. This Motion is based upon the accompanying Memorandum of Points
15 and Authorities, Declaration of Laila Masud and all documents on file in this case.

16
17 DATED: September 6, 2023

MARSHACK HAYS LLP

18
19 By: /s/ Laila Masud

D. EDWARD HAYS

LAILA MASUD

Attorneys for Chapter 11 Trustee

RICHARD A. MARSHACK

Memorandum of Points and Authorities

1. Summary of Argument

Pursuant to FRBP 2004, the Court may order the examination of an entity regarding matters that relate to acts, conduct, or property or to the liabilities and financial condition of the Debtor, or to any matter that may affect the administration of the Debtor's Estate. In this case, the Trustee, his counsel, and his accountants require the records related to Debtor's financial accounts in order to investigate and ascertain the extent/scope of certain avoidance actions. Thus, the Trustee files the instant motion to obtain the records directly from Bank.

2. Factual Background

On March 20, 2023, The Litigation Practice Group P.C. ("Debtor") filed a voluntary petition under Chapter 11 of Title 11 of the United States Code, initiating bankruptcy Case No. 8:23-bk-10571-SC in the United States Bankruptcy Court for the Central District of California, Santa Ana Division.

On March 30, 2023, as Dk. No. 21, the United States Trustee filed a motion to dismiss or convert the case under 11 U.S.C. § 1112(b) for failure to comply with the U.S. Trustee guidelines and requirements for a chapter 11 case.

On April 4, 2023, Debtor filed its schedules and statements. Docket Nos. 32-34, 36; *see also* Docket Nos. 52-54 (amended schedules and statements).

On May 4, 2023, the Court entered an "Order Directing United States Trustee to Appoint Chapter 11 Trustee." Docket No. 58. Richard A. Marshack was appointed as the Chapter 11 trustee of the Debtor's estate. Docket Nos. 62-65.

On July 7, 2023, as Dk. No. 191, Trustee filed a sale motion in the Bankruptcy seeking to sell substantially all of Debtor's assets including, leases, equipment, furniture, consumer client accounts, prepayments, legal service agreements, intellectual property, pending licenses, and certain proprietary property, all of which is defined in Section V.A. of the sale motion ("Sale Motion").

By Order of July 22, 2023, the Court authorized Trustee's sale of the Debtor's property (Dk. No. 320).

1 **3. Grounds for 2004 Examination**

2 Pursuant to FRBP 2004, the Court may order the examination of an entity regarding matters
3 that relate to acts, conduct, or property or to the liabilities and financial condition of the Debtor, or to
4 any matter that may affect the administration of the Debtor's Estate. In this case, the Trustee, his
5 counsel, and his accountants require the records related to Debtor's financial accounts in order to
6 investigate and ascertain the extent/scope of certain avoidance actions. As this Court is aware,
7 Debtor's production of documents revealing its prepetition financial affairs, including books and
8 records, has been deficient to date. Thus, the Trustee files the instant motion to obtain the records
9 directly from Bank.

10 **4. Argument**

11 **A. Scope of Examination of Rule 2004(b) of the FRBP**

12 Rule 2004(b) of the FRBP provides that the scope of examination must relate to "acts,
13 conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which
14 may affect the administration or the debtor's estate, or to the debtor's right to a discharge." Through
15 this Motion, the Trustee seeks by examination to obtain information regarding possible concealed
16 assets, unauthorized transfers of Estate property, diversion of income and Estate assets, and potential
17 avoidance actions to avoid, recover and preserve, certain prepetition transfer of assets.

18 By this examination, Trustee seeks to obtain records relating to Debtor's business, assets,
19 including monthly statements, cancelled checks, all documents detailing other debits, and wire
20 transfers. The documents that Trustee seeks are set forth in **Exhibit 1** of this motion.

21 **B. Document Production**

22 FRBP 2004(e) provides that "If the debtor resides more than 100 miles from the place of
23 examination when required to appear for an examination under this rule, the mileage allowed by law
24 to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the
25 date of the filing of the first petition commencing a case under the Code or the residence at the time
26 the debtor is required to appear for the examination, whichever is the lesser."

27 Trustee does not seek authority to orally examine Bank pursuant to this Motion, and Bank
28 does not need to appear for examination. Instead, Trustee asks that Bank be ordered to produce the

documents identified in **Exhibit 1** on or before September 22, 2023, or at any date agreed to by Trustee and Bank, at the offices of Marshack Hays LLP, 870 Roosevelt, Irvine, California 92620, or by either (i) mailing copies of the documents to Marshack Hays LLP, 870 Roosevelt, Irvine, California 92620 or (ii) e-mailing said documents in pdf format to D. Edward Hays at ehays@marshackhays.com and/or Laila Masud at lmasud@marshackhays.com. As such, Trustee is not required to tender a mileage allowance or a witness fee.

C. Compliance with LBR 2004-1

Local Bankruptcy Rule (“LBR”) 2004-1 provides that:

(a) Conference Required. Prior to filing a motion for examination or for production of documents under FRBP 2004, the moving party must attempt to confer (in person or telephonically) with the entity to be examined, or its counsel, to arrange for a mutually agreeable date, time, place, and scope of an examination or production.

(b) Motion. A motion for examination under FRBP 2004 must be filed stating the name, place of residence, and the place of employment of the entity to be examined, if known. The motion must include a certification of counsel stating whether the required conference was held and the efforts made to obtain an agreeable date, time, place, and scope of an examination or production. The motion must also explain why the examination cannot proceed under FRBP 7030 or 9014.

LBR 2004-1(a-b).

Bank is a financial institution that had business dealings with Debtor. On August 23, 2023 Laila Masud (“Ms. Masud”) of Marshack Hays LLP, counsel for the Trustee, caused a meet and confer letter to be sent to Bank, in an effort to arrange for the production. *See*, Masud Decl. ¶5. As of this date, no response has been received from Bank. *Id.*, at ¶6. The Trustee now files this Motion in an effort to secure all documents requested in **Exhibit “1”** of this Motion.

The examination cannot proceed by formal discovery under FRBP 7030 or FRBP 9014 because there are no pending adversary proceedings or contested matters to which the scope of the document production relates to the Trustee. *Id.*, at ¶7.

1 **D. Certification Pursuant to LBR 2004-1**

2 Undersigned counsel for the Trustee certifies that on August 10, 2023, prior to filing this
3 Motion, they attempted to communicate with Bank regarding the time, place, and scope of the
4 production sought by this Motion, as required by LBR 2004-1. *See*, Masud Decl. ¶5.

5 **5. Conclusion**

6 For all of the foregoing reasons, the Trustee respectfully requests that the Court grant this
7 Motion and order the requested examination. Specifically, Trustee requests that Bank be ordered to
8 produce the documents identified in Exhibit “1” no later than September 22, 2023, or any other day
9 mutually agreeable to Respondent and Trustee.

10
11 DATED: September 6, 2023

MARSHACK HAYS LLP

12
13 By: /s/ Laila Masud

D. EDWARD HAYS

LAILA MASUD

Attorneys for Chapter 11 Trustee

RICHARD A. MARSHACK

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Declaration of Laila Masud

I, LAILA MASUD, say and declare as follows:

1. I am an individual over 18 years of age and competent to make this Declaration.

2. I am an attorney at law duly admitted to practice before this Court and all courts of the State of California. I am a partner with the law firm of Marshack Hays LLP (“Firm”) and maintain offices at 870 Roosevelt, Irvine, California, 92620.

3. I make this Declaration in support of the Trustee’s Motion for Examination of Optimum Bank (“Bank”), pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (“Motion”). By this Motion, Trustee seeks the documents identified in the attached **Exhibit “1.”** To complete its investigation into potential avoidance causes of action, Trustee believes these documents are needed.

4. Capitalized terms not defined in this Declaration shall have the meaning ascribed to them in the Motion. The facts set forth in this Declaration are true of my personal knowledge, and if called upon to do so I could and would competently testify to these facts.

5. On August 23, 2023, I caused my staff to transmit a meet and confer letter regarding FRBP 2004 examination to Bank. Attached hereto as **Exhibit “2”** is a true and correct copy of the meet and confer letter.

6. As of this date, no response has been received from Bank. The Trustee now files this Motion in an effort to secure all documents requested in **Exhibit “1”** of the Motion. Importantly, this Motion is being filed in case production cannot be obtained without a court order.

7. The examination cannot proceed by formal discovery under FRBP 7030 or FRBP 9014 because there are no pending adversary proceedings or contested matters to which the scope of the document production relates to the Trustee.

8. I believe that examination of Bank under Rule 2004(b) of the Federal Rules of Bankruptcy Procedure will assist the Trustee in recovering assets of the Estate. Bank is not a party to this case and is not involved in a contested matter in Debtor’s case.

///

9. The purpose of this Motion and the requested examination is to identify and locate potential Estate assets.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 6, 2023.

/s/ Laila Masud
LAILA MASUD

EXHIBIT 1

Exhibit 1

Rule 2004 Examination Definitions and Instructions

A. Definitions

As used in these Requests, the following terms shall be defined as follows:

1. “DEBTOR” shall mean and refer to The Litigation Practice Group P.C., the debtor in Case No. 8:23-bk-10571-SC, a voluntary chapter 7 case currently pending in the United States Bankruptcy Court for the Central District of California, Central Division.

2. “BANKRUPTCY CASE” shall mean the Chapter 11 bankruptcy proceeding, initiated on March 20, 2023, as a Chapter 11 bankruptcy proceeding, Central District of California Bankruptcy Case No. 8:23-bk-10571-SC.

3. “YOU,” “YOUR,” and “RESPONDENT” shall mean and refer to the person most knowledgeable for American Express National Bank As Successor Institution to American Express Centurion Bank and American Express Bank, FSB on the subject of the request.

4. “TRUSTEE” shall mean and refer to Richard A. Marshack, in his capacity as Chapter 11 trustee of the BANKRUPTCY CASE, and all other persons or agents acting on his behalf in his capacity as Chapter 7 trustee of this case.

5. “PETITION DATE” shall refer to March 20, 2023.

6. “DOCUMENT” or “DOCUMENTS” mean and refer to any written, recorded (electronically or otherwise), printed, or graphic matter, however produced or reproduced, whether existing in paper format, as ELECTRONICALLY STORED INFORMATION, or otherwise, of any kind or description, including originals, copies, non-identical copies, and drafts and both sides thereof. DOCUMENTS include but are not limited to sound recordings, electronic memoranda, and files with meta data intact (including e-mail or similar electronic messages or memos and word processing, database, and spreadsheet files), photographs, ESI (defined below), and all other tangible things in which words, figures, notations, or sounds are recorded in writing or by any other means, however denominated, and any such material underlying, supporting, or used in the preparation thereof.

7. “RELATING TO” shall have the same meaning as “RELATE,” “REFER,”

1 “REFERRING TO,” “RELATED TO,” “EVIDENCE,” “EVIDENCING,” and “CONSTITUTE”
2 and includes referring to, recording, reflecting, supporting, interpreting, prepared in connection
3 with, used in preparation for, pertaining to, mentioning, having any relationship to, or being in any
4 way legally, logically, or factually connected with the matter discussed, in whole or in part.

5 8. “COMMUNICATION” means any transmission, relation, or delivery of things,
6 facts, thoughts or ideas by any means, method, or medium on or by which intelligence or
7 information can be delivered, transported, recorded, maintained or retrieved, including telephonic
8 face to face conversation, without limitation, any handwritten, typed, printed, graphic, electric,
9 magnetic, or illustrative material of any kind or description, including ESI (defined below), drafts
10 and final versions, originals and reproductions, signed and unsigned versions, however produced
11 or reproduced, and regardless of whether approved, signed, sent, received, redrafted, prepared by
12 or for, or in the possession, custody or control of the party to whom this discovery is propounded
13 or any other PERSON acting or purporting to act on behalf of such party.

14 9. “ELECTRONICALLY STORED INFORMATION” or “ESI” shall include,
15 without limitation, the following:

16 a. Information that is generated, received, processed, and recorded by laptop
17 computers, desktop computers, microprocessors, all manner of digital recording devices such as
18 portable cameras and microphones included with smartphones, and other electronic devices;

19 b. Internal or external web sites and servers;

20 c. Text, subject lines, attachments, contacts, appointments, and all information
21 contained within electronic mail (“e-mail”) accounts, whether those accounts are hosted or
22 serviced by a third-party provider such as Google’s Gmail, Microsoft Outlook, or Apple Mail;

23 d. Any and all communications, posts, text, images, or video messages posted
24 on a public-facing social media service such as Facebook, Google+, Twitter, Instagram,
25 Wordpress, Snapchat, or other social media service, to the extent not protected by federal and state
26 privacy laws;

27 e. Output resulting from the use of any software program, whether said
28 electronic data exists in an active file, specifying all files that are accessible and stored in a readily

1 usable format (e.g., active, online data; near-line data; offline storage; and archives);

2 f. Activity listings of email receipts and transmittals; and

3 g. All items stored on computer memories, hard disks, solid state drives or
4 hybrid drives, floppy disks, CD-ROMs, DVD-ROMS, Blu-ray disks, magnetic tape, microfiche,
5 USB memory sticks, external hard drives, online “cloud” storage hosted by an external service
6 such as Amazon Web Services, Microsoft OneDrive, iCloud, or a comparable service, the internal
7 flash memory of a smartphone such as an iPhone or Android device, or on any other media for
8 digital data storage or transmittal (e.g., a personal digital assistant such as a Blackberry), and file
9 folder tabs or containers and labels appended or relating to any physical storage device associated
10 with each original or copy of all Documents requested herein.

11 10. “IDENTIFY” shall mean:

12 a. When used in reference to a DOCUMENT, to state the type of
13 DOCUMENT (e.g., letter, memorandum, telegram, chart, etc.), its author and originator, its date or
14 dates, all addressees and recipients, and its present location or custodian;

15 b. When used in reference to a natural person, to state the person’s full name,
16 current residence and business addresses, current residence and business telephone numbers and, if
17 applicable, his or her title, employment, and job description. If current addresses are unknown,
18 provide the last known business and residence address; and,

19 c. When used in reference to an entity, to state the name, address, and
20 telephone number of the entity.

21 B. Instructions

22 1. Documents Withheld

23 If any DOCUMENT is withheld under a claim of privilege or other protection, so as
24 to aid the Court and the parties hereto to determine the validity of the claim of privilege or other
25 protection, please provide the following information with respect to any such DOCUMENT:

26 a. The DOCUMENT’S title, if any;

27 b. The full legal name, address, and title of the person(s) who prepared the
28 DOCUMENT, who signed it, and over whose name it was sent or issued;

1 c. The full legal name, address, and title of each person(s) to whom the
2 DOCUMENT was directed;

3 d. The nature and substance of the DOCUMENT with sufficient particularity
4 to enable the Court and parties to this ACTION to identify the DOCUMENT;

5 e. The date the DOCUMENT was first prepared;

6 f. The full legal name, address, and title of each person(s) who has custody of
7 or control over the DOCUMENT and each copy thereof;

8 g. The full legal name, address, and title of each person to whom copies of the
9 DOCUMENT were furnished;

10 h. The number of pages comprising the DOCUMENT;

11 i. The specific legal or factual basis on which any privilege or other protection
12 is claimed (blanket claims of attorney-client privilege will not be deemed sufficient);

13 j. Whether any non-privileged or non-protected matter is included in the
14 DOCUMENT, and whether the DOCUMENT can be sufficiently redacted to disclose only non-
15 privileged or non-protected matter;

16 k. The full legal name, address, and title of each person who has seen or
17 reviewed or is likely to have seen or reviewed the document; and a description of the subject
18 matter of the document YOU consider adequate to support the claim of privilege.

19 2. Partial Production

20 Whenever YOU object to a particular request, or portion thereof, YOU must produce all
21 documents called for which are not subject to that objection. Similarly, wherever a document is not
22 produced in full, state with particularity the reason or reasons it is not being produced in full, and
23 describe, to the best of YOUR knowledge, information and belief and with as much particularity as
24 possible, those portions of the DOCUMENT which are not produced.

25 3. Orderly Response

26 Please produce DOCUMENTS in such manner with specific reference to which
27 interrogatory, request for production, etc. which the DOCUMENT is responsively produced to.
28 Please produce all DOCUMENTS as they are kept in the usual course of business, organizing,

1 naming, and labeling them to correspond with each Request.

2 4. Construction of “And” and “Or”

3 As used herein, the words “and” and “or” shall be construed both conjunctively and
4 disjunctively, and each shall include the other wherever such dual construction will serve to bring
5 within the scope of this request any documents which would otherwise not be brought within its
6 scope.

7 5. Construction of the Singular and Plural Forms

8 As used herein, the singular form shall include the plural and vice versa whenever such
9 dual construction will serve to bring within the scope of this request any documents which would
10 otherwise not be brought within its scope.

11 6. Form of Production

12 YOU are to produce the requested DOCUMENTS for inspection, copying, or
13 photographing in their original form or legible, accessible electronic reproduction thereof.
14 DOCUMENTS may be produced electronically at YOUR option.

15 With regard to electronically-stored information, please produce Microsoft PowerPoint
16 presentations containing audio, Microsoft Excel documents containing macros, and Microsoft
17 Access databases in native format. Please produce all other documents produced electronically in
18 native format with metadata intact or in PDF format with metadata intact. Alternatively,
19 DOCUMENTS produced electronically may be produced in TIFF format with standard load files,
20 including .opt image load files and .data metadata load files.

21 ESI may be provided via CD, DVD, File Transfer Protocol site, portable hard or flash
22 drive, or other reasonably accessible media format. When practicable, please produce hard copy or
23 physical documents in scanned OCR’d PDF format with metadata intact or scanned TIFF format
24 with standard load files, including .opt image load files and .dat metadata load files. Data files
25 should not be zipped, encrypted, or otherwise restricted or proprietarily protected for specific use.
26 If the native file format is derived from software not accessible with Microsoft Office applications
27 (or other common applications), please so state in response to the particular Request.

28 If the Document or information requested is in a computer-readable form and not produced

1 in PDF or TIFF format, please specify the software (including the exact versions and release) used
2 to create the information. Also specify any other software, hardware, or other information such as
3 passwords or user-supplied files that are required or desirable in order to examine and use the
4 information. Specify the exact configuration of the hardware on which the information was
5 created, including the memory size (and graphics processing unit, if any, in the event the
6 information contains or requires graphics). Please give the exact name, release, and version of the
7 operating system used on the hardware.

8 NOTE: IF YOU ARE UNSURE AS TO THE INTENT AND MEANING OF ANY OF
9 THE FOREGOING DEFINITIONS OR ANY OF THE FOLLOWING REQUESTS FOR
10 PRODUCTION, YOU ARE HEREBY REQUESTED TO HAVE YOUR ATTORNEY
11 CONTACT ATTORNEYS OF RECORD FOR THE PROPOUNDING PARTY, WHO HEREBY
12 OFFER TO PROVIDE ANY NEEDED ASSISTANCE NECESSARY FOR YOU TO
13 UNDERSTAND THE INTENT AND MEANING OF ANY OF THE FOREGOING THEREBY
14 TO ENSURE THAT THE COURT IS NOT BURDENED BY ANY MOTION TO COMPEL
15 FURTHER RESPONSES TO REQUESTS FOR PRODUCTION BECAUSE OF ANY
16 UNCERTAINTY OF THE FOREGOING ON YOUR PART.

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DOCUMENTS REQUIRED TO BE PRODUCED

REQUEST FOR PRODUCTION NO. 1:

All DOCUMENTS, including statements, checks, cleared check images, deposits, deposit details, wire transfers, withdrawals, withdrawal details, wire transfers, authorized signatories, opening and closing statements and cancelled checks, RELATED TO all accounts in the name of THE LITIGATION PRACTICE GROUP, P.C. (EIN 83-3885343), for the following periods:

- March 2019 to March 20, 2023.

REQUEST FOR PRODUCTION NO. 2:

All DOCUMENTS, evidencing authorized cardholders, including statements evidencing charges by each such cardholder, in the name of THE LITIGATION PRACTICE GROUP, P.C. (EIN 83-3885343), for the following periods:

- March 2019 to March 20, 2023.

REQUEST FOR PRODUCTION NO. 3:

All DOCUMENTS, RELATED to application(s) for account opening(s), RELATED TO all accounts in the name of THE LITIGATION PRACTICE GROUP, P.C. (EIN 83-3885343), for the following periods:

- March 2019 to March 20, 2023.

REQUEST FOR PRODUCTION NO. 4:

All DOCUMENTS, RELATED to all payments received by YOU from the LITIGATION PRACTICE GROUP (EIN 83-3885343), regardless of which account(s) the payment was applied, for the following periods:

- March 2019 to March 20, 2023.

4855-7098-5342, v. 1

EXHIBIT 2

MARSHACK HAYS LLP

ATTORNEYS AT LAW | LITIGATION | REORGANIZATION | BANKRUPTCY

Richard A. Marshack
D. Edward Hays
David A. Wood
Chad V. Haes
Laila Masud
Tinho Mang
Bradford N. Barnhardt
Sarah R. Hasselberger

Of Counsel
Kristine A. Thagard
Matthew W. Grimshaw

Sender: Laila Masud
lmasud@marshackhays.com
Reference No. 1015-157

23 August 2023

VIA REGULAR MAIL

American Express National Bank
As Successor Institution to American
Express Centurion Bank and American
Express Bank, FSB
Attn: Officer, A Managing Or
General Agent, Or To Any Other
Agent Authorized By Appointment
Or Law To Receive Service
115 West Towne Ridge Parkway
Sandy, UT 84070

American Express Company
c/o CT Corporation System,
Registered Agent
330 N. Brand Blvd., Ste. 700
Glendale, CA 91203

Re: *In re The Litigation Practice Group P.C.*
Case No. 8:23-bk-10571-SC

To Whom It May Concern:

Marshack Hays LLP (“Firm”) represents Richard A. Marshack, the duly appointed and acting Chapter 7 Trustee (“Trustee”) for the Bankruptcy Estate (“Estate”) of The Litigation Practice Group, P.C. (“Debtor”). The purpose of this letter is to inform you of the Trustee’s intent to request certain documents be produced by September 22, 2023, pursuant to Rule 2004 of the Federal Rule Bankruptcy Procedure (“FRBP”).

Under FRBP 2004, a trustee may conduct an examination of “any entity” provided that the scope of the examination must relate to “acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate or to the debtor’s right to a discharge.” *See*, Fed. R. Bank. P. 2004(b); *see also*, *In re Subpoena Duces Tecum & Ad Testificandum Pursuant*

23 August 2023

Page 2

to Fed. R. Bankr. P. 2004, 461 B.R. 823, 829 (Bankr. C.D. Cal. 2011) (“The scope of a 2004 examination is ‘unfettered and broad’ and is akin to a ‘fishing expedition.’”).

Prior to prior to filing a motion for examination under FRBP 2004, the moving party must attempt to meet and confer (in person or telephonically) with you, or your counsel, to arrange for a mutually agreeable date, time, place, and scope of an examination or production. *See*, Local Bankruptcy Rule 2004-1 for the Central District of California. Specifically, the Trustee requests the following documents be produced no later than September 22, 2023:

Account Name: The Litigation Practice Group, P.C. (EIN 83-3885343)
Account No. All Accounts

- Statements: 03/2019 to 03/20/2023
 - Including all opening and closing statements, and deposit detail
- All documents evidencing authorized cardholders
 - Including all statements evidencing charges by each such cardholder
- Application for account opening
- All payments received by American Express from The Litigation Practice Group, P.C. (EIN 83-3885343) regardless of which account the payment was applied

To discuss arrangements for the Rule 2004 examination (document production **only**), please contact me by the close of business on Thursday, August 31, 2023, by e-mail at lmassud@marshackhays.com, or on my cell phone at (909) 680-5574. Again, the Trustee simply seeks documents from your institution to further his investigation into Debtor’s assets and financial affairs and appreciates in advance your cooperation in this matter.

Sincerely,


LAILA MASUD

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
870 Roosevelt, Irvine, CA 92620.

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION FOR ORDER AUTHORIZING PRODUCTION OF DOCUMENTS FROM AMERICAN EXPRESS NATIONAL BANK AS SUCCESSOR INSTITUTION TO AMERICAN EXPRESS CENTURION BANK AND AMERICAN EXPRESS BANK, FSB PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATION OF LAILA MASUD IN SUPPORT** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **September 6, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **September 6, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR

MAIL REDIRECTED TO TRUSTEE

THE LITIGATION PRACTICE GROUP
P.C.
17542 17TH ST, SUITE 100
TUSTIN, CA 92780-1984

INTERESTED PARTY

AMERICAN EXPRESS NATIONAL BANK
AS SUCCESSOR INSTITUTION TO
AMERICAN EXPRESS CENTURION
BANK AND AMERICAN EXPRESS
BANK, FSB ATTN: OFFICER, A
MANAGING OR GENERAL AGENT, OR
TO ANY OTHER AGENT AUTHORIZED
BY APPOINTMENT OR LAW TO
RECEIVE SERVICE
115 WEST TOWNE RIDGE PARKWAY
SANDY, UT 84070

INTERESTED PARTY

AMERICAN EXPRESS COMPANY
C/O CT CORPORATION SYSTEM,
REGISTERED AGENT
330 N. BRAND BLVD., STE. 700
GLENDALE, CA 91203

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **September 6, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA PERSONAL DELIVERY:

PRESIDING JUDGE'S COPY

HONORABLE SCOTT C. CLARKSON
UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT OF CALIFORNIA
RONALD REAGAN FEDERAL BUILDING AND COURTHOUSE
411 WEST FOURTH STREET, SUITE 5130 / COURTROOM 5C
SANTA ANA, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 6, 2023

Date

Layla Buchanan

Printed Name

/s/ Layla Buchanan

Signature

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): CONTINUED:

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